IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 4336/2000

BHUVAN BEHARI PANDEY Vs. THE UNION OF INDIA & ORS.

Date: 06.11.2006.

HON'BLE MR. K.S. RATHORE, J.

Mr. Yogesh Kumar Sharma for the petitioner.
Mr. Virendra Lodha for the respondent Nos. 1 to 3.
Mr. Alok Garg for the respondent No.4.

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Short controversy in this writ petition is with regard to pensionary benefits considering the services rendered by the petitioner from 21.05.1955.

Brief facts of the case are that the petitioner was initially appointed in the Western Railway, Kota Division, Kota on 21.05.1955 and continued to work there up to 27.01.68. Thereafter the petitioner was sent on deputation in the Ministry of Food and Agriculture, Regional Director, Bombay, where he worked w.e.f. 28.11.68 to 28.02.69 and thereafter the petitioner was finally absorbed in the R.D.F. The petitioner while working in the Western Railway, given his option for Contributory Provident Fund Scheme.

During pendency of the writ petition, as per the reply, it is given out by the learned counsel for the respondents that pensionary benefits have been extended in favour of the petitioner w.e.f 1960 to till the date of attaining superannuary age. Now the dispute remains with regard to the period between the year 1955 to 1960.

For this period, the learned counsel for the petitioner submits that he is entitled to get the pensionary benefits w.e.f. 1955, the year in which he was initially appointed in Western Railway, which is made clear by the Sr. DAO, Kota vide his letter dated 05.05.93, wherein the Western Railway has certified that the above contribution pertains to the entire service from 21.05.55 to 27.11.68 rendered by the petitioner in Western Railway.

It is not disputed that the petitioner retired from service in the year 1992 after attaining superannuary age. Delay of 8 years in filing the present petition was on account of pending his representations which were regularly made to the respondents and he has availed the remedy before the Central Administrative Tribunal and vide Annexure-12 dated 19.05.2000, the Central Administrative Tribunal, Jaipur Bench, Jaipur directed to return the original

papers/application to the petitioner as the Tribunal has no jurisdiction to entertain the application and immediately thereafter the petitioner preferred this writ petition.

Per contra, learned counsel Mr. Virendra Lodha appearing for respondent Nos. 1 to 3 and learned counsel Mr. Alok Garg appearing for respondent No.4 submit that the retiral benefits have been extended in favour of the petitioner w.e.f 01.12.60. Learned counsel for the respondents has referred the option given by the petitioner, which is annexed along with the reply as Annexure-R/3. In the said option form, the petitioner has opted for the Provident Fund benefit and the same has been paid and received by the petitioner.

Learned counsel for the respondents further referred Annexure-R/5, the statement of the petitioner in the context of accepting the period of pensionable service as verified in involving the provision of Ministry of Finance dated 28.02.76, wherein the petitioner himself has given the statement that the period from 01.12.60 to 27.11.68, he served in the Railway as Assistant Station Master. Thus, as per the statement and as per the option given by the petitioner, the benefit of provident fund has been extended from 1955 to 1960 and as per the statement

made on behalf of the petitioner, pensionary benefits have been given from the period w.e.f. 01.12.60.

In view of these facts, I find no illegality or error apparent on the face of the record in not giving the benefit of retiral benefits w.e.f. 1955 as the provident fund amount has been paid and the same has been accepted by the petitioner and he has rightly been extended the benefit of pension from 01.12.60, as per the statement given by the petitioner.

Consequently, I find no merit in the writ petition, the same fails and is hereby dismissed.

(K.S. RATHORE),J.

/KKC/